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INCORPORATING THE PRACTICE OF
MILLER & HOLBROOKE

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October 11, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND DELIVERY

Ms. Meredith Jones
Mr. Patrick Donovan
Cable Services Bureau
2033 M Street, N.W.
9th Floor
Washington, D.C. 20554

Re: Ex Parte Submission in MM Docket No. 92-266

Dear Ms. Jones and Mr. Donovan:

On behalf of the City of St. Louis, Missouri, I am sending you information regarding program offerings and cable prices which we have discussed over the telephone. The City of St. Louis understands that the Federal Communications Commission is considering adopting some sort of rules that would provide significant additional financial incentives to operators who add channels to regulated service tiers. The City does not believe there is any need for such additional incentives and believes there is substantial evidence that no further incentive is required.

Among other things, as shown in the attachments:

1. Operators are adding channels even without additional incentive. Since the onset of regulation, operators have added capacity and have added channels to their systems. In Larchmont, New York, for example, TCI has substantially expanded channel capacity and service offerings since September, 1992 (Attachment

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MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Ms. Meredith Jones
Mr. Patrick Donovan

-2-

October 11, 1994

1). Time Warner told the FCC¹ that since 1994, it had added 19 channels of programming to its Akron area systems. It attested "[c]ustomer preference in an increasingly competitive information and entertainment industry requires Time Warner to offer subscribers expanded programming choices ..." (Attachment 2).

2. The FCC's benchmark rates already provide operators who add new programming channels the opportunity to earn additional revenues both through increased charges to existing subscribers and by adding subscribers. There is no indication operators need additional incentives to add programming. Indeed, the historical evidence indicates existing benchmark incentives are more than adequate; the proposed incentives that are being described in the press seem plainly excessive (we are relying on press reports because there has never been a formal opportunity to review or comment on the incentive program now apparently being considered by the FCC). For example, Attachment 3, a presentation made by TCI in Salina, Kansas, shows actual per-channel costs dropping from 1988-1991 and also shows that the prices have increased less than inflation over the last two decades, even while channels were being added. This is consistent with data submitted by TCI for the cable industry as a whole and for its operations nationwide in MM Docket No. 89-600.² Data submitted by Time Warner was to the same effect.³

You should also recognize that the industry continues to earn high returns. Additionally, subscribers from whom we hear

¹ In re New Hampshire House of Representatives Committee on Science, Technology and Energy Petition for Declaratory Ruling, Reply Comments of Time Warner Entertainment, L.P. at 3-4.

² See, e.g., Comments of Tele-Communications, Inc. in Response to Notice of Inquiry in MM Docket No. 89-600 (March 1, 1990) at pp. 23-27 (asserting average cost per channel rose 2¢ between 1986-1988, even though industry added 20-25% more programming services; when adjusted for inflation, "the price of cable ... remained virtually unchanged") (Attachment 4).

³ Comments of Time Warner, Inc. in MM Docket No. 90-4 (February 14, 1991) at pp. 3-4 (suggesting that program expenditures, on a per-channel, per-subscriber basis decreased during deregulation at the same time operators were adding channels). (Attachment 5).

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Ms. Meredith Jones
Mr. Patrick Donovan

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October 11, 1994

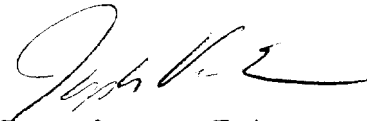
do not want to encourage addition of unwanted basic channels, as is already occurring in some places as a result of the Cable Bureau's "home shopping" rules. If we can provide you with further information, please let me know.

Pursuant to 47 C.F.R. § 1.1206, two copies of this letter have been filed with the Secretary.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE

By



Joseph Van Eaton

JVE:dmb
Enclosures
WAFS1\32896.1\104263-00001

ATTACHMENT 1

RATES

BASIC CABLE SERVICE.....\$ 9.47/mo. (franchise fee included)
EXPANDED BASIC SERVICE.....\$13.03/mo. (franchise fee included)

$\div 1.03 = 9.19$

INDIVIDUAL PREMIUM SERVICE PRICES

*HOME BOX OFFICE.....\$14.42/mo.
*SHOWTIME.....\$14.42/mo.
THE DISNEY CHANNEL.....\$ 8.98/mo.
*THE MOVIE CHANNEL.....\$13.98/mo.
*CINEMAX.....\$13.98/mo.
SPORTSCHANNEL.....\$15.98/mo.
SPORTSCHANNEL (each additional outlet).....\$ 7.98/mo.
ENCORE (w/out premium service).....\$ 1.76/mo.
ENCORE (with a premium service).....\$ 1.00/mo.
BRAVO.....\$ 7.98/mo.

FRANCHISE F
SEP. STATE
ON CUST.
BILLS

*PACKAGE PREMIUM SERVICE PRICES

Any two(2) Premium Services.....\$23.93 or \$24.38 with HBO
Any three(3) Premium Services.....\$32.88 or \$33.33 with HBO
Any four (4) Premium Services.....\$41.23
*Package Premium Services for these services only.

PAY-PER-VIEW SERVICES

You may order movies or events with the use of an addressable converter. The schedule of Pay-Per-View movies and event and their prices are shown on TCI Channel 3. Your account will be charged for each movie or event you order.

CABLE GUIDE

\$1.25/mo.

OPTIONAL MUSIC SERVICES AND EQUIPMENT

DMX (Digital Music Express) with tuner & remote control... \$9.95/mo.(franchise fee included)

OPTIONAL EQUIPMENT (franchise fee included)

Standard Converter.....\$.76/mo. $\div 1.03 = .74$
Addressable Converter.....\$ 1.30/mo. $\div 1.03 = 1.26$
Remote Control.....\$.14/mo. $\div 1.03 = .14$

SUBSCRIBER SERVICES RATE SCHEDULE (franchise fee included)

RESIDENTIAL & COMMERCIAL INSTALLATIONS:

Aerial installation (to 150 feet).....\$84.50 $\div 1.03 = 82.03$
Aerial installation (over 150 feet).....\$56.33/hr

BASIC CABLE SERVICE

- 2 WCBS
- 3 Barker PAY PER VIEW ADVERT.
- 4 WNBC
- 5 WNYW
- 6 WTBS S
- 7 WABC
- 8 Public Access
- 9 WWOR
- 10 Local Origination
- 11 WPIX
- 12 WNJU
- 13 WNET
- 14 Public Access
- 15 Government Access
- 16 Educational Access
- 19 EPG (S) ELECTRONIC PROGRAM GUIDE
- 20 WNYC
- 21 WLIW
- 22 WSBK
- 23 WXTV
- 24 WHSE
- 25 WNYE
- 27 C-SPAN S
- 28 C-SPAN II S
- 30 FUTURE
- 31 FUTURE

- 47 Lifetime S
- 48 Comedy Central S
- 49 Cartoon Network S
- 50 Nickelodeon S
- 51 MTV S
- 52 VH-1 S
- 53 BET S
- 54 TNN S
- 55 CMT S COUNTRY MUSIC TELEVISION
- 56 QVC S
- 57 CAC S CLASSIFIED ADD
- 58 Court TV S
- 59 Travel Channel S
- 60 The Learning Channel S
- 61 Mind-Extension University S
- 62 E! S
- 63 Multiview SHOW CNN I, CNN II &
WEATHER CHL ALL ON 1 SCREEN
- 64 VTSN S THIS IS DONE AT THE SYSTEM

PREMIUM CHANNELS

- 26 Encore (w/no addressable converter)
- 65 The Disney Channel
- 66 Home Box Office
- 67 The Movie Channel
- 68 Cinemax
- 69 Showtime
- 70 TV Food Network * AFTER EFF. DATE
OF REG.; ADD 11/6/93
- 71 Bravo
- 72 SportsChannel
- 73 Encore (w/addressable converter)

EXPANDED BASIC CABLE

- 32 ESPN 2 ADD 11/6/93 *AFTER EFF. DATE
OF REG.
- 32 CNN S
- 33 CNBC S
- 34 HNN S HEADLINE NEWS
- 35 The Weather Channel S
- 36 The Discovery Channel S
- 37 Arts & Entertainment S
- 38 American Movie Classics S
- 39 Nostalgia S
- 40 TNT. 40-TNTS
- 41-ESPN S
- 42 MADISON SQUARE GARDEN S 18 HRS A DAY
- 43 MADISON SQUARE GARDEN II X/EPG
- 44 SportsChannel America S
- 45 USA Network S
- 46 The Family Channel S

MSG I - SHOWS SPORTING EVENTS;
KNICKS, RANGERS, HOCKEY LA

MSG II - USE 20-40 HRS A YEAR; USE
FOR EXAMPLE WHEN KNICKS,
RANGERS, ARE BOTH PLAYING. OTHERWISE EPG, duplicate w/#19

PAY-PER-VIEW

- 74 Request I
- 75 Request II
- 76 CVS
- 77 Action
- 78 Playboy

B = 24
EB = 32
SAT = 35

INCLUDES FEEES CURRENT SCHE E OF MONTHLY RATES AND CHA GES

LINE 201
6/1/92

Monthly Service

Residential:

1. Basic Service
2. Plus Service
3. Each Additional Outlet

\$ 12.95
\$ 6.00
\$ 8.95

$$1.03 = 13.54$$

$$1.03 = 5.97$$

Reconnection

- Original Appointment
Separate Visit

\$ 20.00
\$ 20.00

Monthly Optional Premium Service, Residential

1. Home Box Office \$ 12.95
2. The Movie Channel \$ 12.95
3. Cinemax \$ 12.95
4. Showtime \$ 12.95

Renewal

- Original Appointment
Separate Visit
Transfer of subscription to another location
within UACG service area underground or
aerial service on existing wire
Jack Wall Plates

\$ 20.00
\$ 20.00
\$ 20.00
Time & Materials
Plus 15%
Time & Materials
Plus 15%
Company Cost
+ HST + 15%

Monthly Service

Commercial:

1. Basic Service \$ 17.95
2. Plus Service \$ 7.50
3. Each Additional Outlet \$ 8.70

Fishing Thru Walls

Parental Key—Set-Top Converter

Above Services Subject to Discounts in Combinations as Follows:

- 1st Service \$12.95
2nd Service \$ 9.95
3rd Service \$ 8.95 Addressable Decoder
@ No Charge
4th Service \$ 7.95 Addressable Decoder
and Remote @ No Charge
*5. Sportschannel, Residential \$ 14.95
Sportschannel per Additional Outlet \$ 8.95
Sportschannel, Commercial \$125.00
Plus \$1.00
per set
*6. The Disney Channel \$ 7.95
*7. Bravo \$ 8.95

Services 5, 6, and 7 not subject to discounts in
combinations

*Addressable Decoder required—see rates below

Program Guides

- First Guide No Charge
Each Additional Guide \$ 2.00
Returned subscriber check—insufficient funds \$ 10.00
Late Payment Fee—
Applies if any portion of account remains
unpaid after 45 days of original date.
Collection Charge—Employee visit to
collect amount overdue \$ 10.00
VCR—With A/B Switch \$ 8.95

Converter Losses—Replacement due to theft, fire or physical damage

1. Set-Top Converter

Cost of
replacement value
Cost of
replacement value
Time & Materials
Plus 15%

2. Addressable Decoder

Converter Repair

Monthly Optional Equipment Charges

1. Addressable Decoder \$ 3.00
2. Addressable Decoder—Basic, HBO, TMC,
or PPV \$ 5.25
3. Addressable Remote Control \$ 3.00
4. Deluxe Set—Top Converter with Remote \$ 4.00
5. Super Deluxe Set—Top Converter with
Remote and Volume Control \$ 5.00

CURRENT SCHEDULE OF INSTALLATION RATES AND CHARGES

Residential Installation

First Outlet:

1. Aerial Drop Service, First Outlet up to
150 ft. \$40.00
2. Drop length exceeding 150 ft. (Aerial) \$.60/ft

A/B Switch (Antenna)

Installation

- Original Appointment
Separate Visit

No Charge
\$25.00

Switch Costs

For Use with Antenna or VCR

\$ 8.00/switch

Underground Drop Service

First Outlet:

1. First 150 ft. of drop \$ 2.75/ft
2. Drop length exceeding 150 ft. Time & Materials Plus 15% \$18.00/ft
3. Boring of sidewalks and driveways \$30.00/ft
4. Cutting of driveways Time & Materials Plus 15%
5. Restoration

Set-Top Converter with Remote

- Original Appointment
Separate Visit

\$10.00
\$20.00

Addressable Decoder

- Original Appointment
Separate Visit
Connection of Additional Service Separate Visit

\$10.00/Service
\$10.00/Service
\$20.00

Additional Outlets

Original Appointment:

- First and Second Additional Outlet \$10.00/set
Third Additional Outlet \$25.00

Separate Visit:

- Any Outlet \$25.00/set

Disconnection

No Charge

Reconnection

- New TV Set Location
Same TV Set Location

\$40.00
\$30.00

VCR Hookup—W/A/B Switch & Splitter

Original Appointment

Separate Visit

\$10.00
\$20.00

Restart

Same Service

\$20.00

All installation charges subject to Local Taxes.

old September Sept 92

BASIC SERVICE

2	WCBS	VERY FEW HRS 2 WK OVER 12 HRS A DAY
3	LO/FAMILY MSG II	SPECIAL EVENTS ONLY
4	WNBC	VERY FEW HOURS A WEEK!
5	WNYW	
6	WTBS	
7	WABC	
8	PUBLIC ACCESS	
9	WWOR	
10	WLJW	
11	WPIX	
12	WNJU (SHARED)	
13	WNET	
31	WNYC (SHARED)	6 a.m. - 8 p.m.
32	WSBK	MICRO WAVE
33	CSPAN I	
34	CSPAN II	
35	GOVERNMENT ACCESS	
36	EDUCATIONAL ACCESS	
37	WXTV/TRAVEL	

OFF AIR ONLY 6-7 HRS B = 19/

PLUS SERVICE

1/99	E! (SHARED)	
2	MSG II	
14	MSG	3 hrs/night
15	LIFETIME	
17	USA	
18	NICKELODEON	
19	LIFESTYLES/PREVIEW	
20	ARTS & ENTERTAINMENT	
21	NOSTALGIA	
22	THE-WEATHER CHANNEL	
23	VH-1 (SHARED)	ON longer
24	MTV	
25	CNBC	
26	ESPN	
27	HEADLINE NEWS	
28	CNN	
29	TNT	
30	QVC	
96/58	NASHVILLE	

SAT = 21/20
EB = 17/18

PREMIUM CHANNELS ONLY AVAILABLE TO PLUS SUBSCRIBERS

- 1/99 SPORTSCHANNEL (SHARED)
- 14 HOME BOX OFFICE
- 15 THE MOVIE CHANNEL
- 23 SPORTSCHANNEL AMERICA (SHARED)
- 31 BRAVO (SHARED)
- 38 CINEMAX
- 39 SHOWTIME
- 40 DISNEY CHANNEL

Services not compatible with cable ready television sets and require a decoder.

RATES

BASIC SERVICE	\$13.95
PLUS SERVICE	\$ 6.00
TOTAL SERVICE	\$19.95

YOU MUST PURCHASE BASIC SERVICE TO BUY PLUS

ATTACHMENT 2

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of:

New Hampshire House of Representatives
Committee on Science, Technology & Energy

Petition for Declaratory Ruling Concerning
Preemption of State Restrictions on Cable
Operators Use of Converter Boxes, Scrambling
Encryption, or Digital Technology

REPLY COMMENTS OF
TIME WARNER ENTERTAINMENT COMPANY, L.P.

Date: July 8, 1994

Fleischman and Walsh
1400 Sixteenth Street, N.W.
Sixth Floor
Washington, D.C. 20036
(202) 939-7900

on subscribers.⁴ As will be demonstrated herein, these claims by the Akron Area Cities are entirely unsubstantiated and reflect the views of a politically active and outspoken minority. What is happening in Akron provides an excellent example of why continued federal preemption in this area is necessary.

Time Warner's system upgrade has provided numerous benefits to subscribers, highlighted by the deployment of over 300 miles of fiber optic cable,⁵ the addition of twelve new channels of programming which are being made available to subscribers on an *a la carte* basis,⁶ the addition of four premium channels⁷ and the addition of three new pay-per-view channels. Commenced in January of 1994, the Akron area upgrade has resulted in the expansion of programming that Time Warner has been able to offer to its subscribers. Prior to the upgrade, Time Warner's system offered 40 total channels of programming, including 2 channels of pay-per-view programming. As a result of the upgrade, Time Warner's system provides a total of 59 channels of programming, including 5 channels of pay-per-view programming.⁸

Reaction to the new *a la carte* programming which the Pioneer 9000 Terminal makes possible has been overwhelmingly positive. Fully 86 percent of Time Warner subscribers who have the *a la carte* programming available to them have opted to order the expanded programming either as individual channels or as part of a package. This striking figure illustrates that Time Warner is providing customers with exactly the type of choice and control

⁴Id. at p. i.

⁵See Exhibit 1 attached hereto at ¶ 7.

⁶These twelve channels include: WGN, ESPN2, Comedy, The Cartoon Channel, E!, Country Music Television, The Learning Channel, Bravo, Court TV, C-SPAN II, VISN, and local programming.

⁷These four include HBO 2, HBO 3, Showtime 3 and FLIX.

⁸See Exhibit 1 attached hereto at ¶ 2.

they insist on as sophisticated consumers and that Congress envisioned. The high percentage also establishes that the overwhelming majority of subscribers have directly benefitted from the use of the Pioneer 9000 Terminal. This widespread public acceptance of Time Warner's new programming and Pioneer 9000 Terminal contrasts sharply with the Akron Area Cities' claims of "strong subscriber outcry" against scrambling and the "associated implementation of unwanted converters."⁹ The fact that 86 percent of subscribers opt for Time Warner's expanded service indicates that there is strong subscriber demand for the new programming.

Customer preference in an increasingly competitive information and entertainment industry requires that Time Warner offer subscribers expanded programming choices individually tailored to their specific needs. Of paramount interest to cable subscribers is the ability to customize the precise mix of new channels, without the need to buy unwanted channels as may happen with the purchase of channel packages. With the improvements resulting from the system upgrade and use of the new home terminal, Time Warner is able to offer subscribers a myriad of individually tailored channel combinations at affordable prices consistent with the need of Time Warner to combat the theft of cable service. This degree of choice simply is not possible with other technologies such as traps, interdiction, or broadband descrambling. The service Time Warner can now provide to customers through the Pioneer 9000 Terminal advances the Congressional goals of permitting subscribers to choose "only those program services they wish to see" and not have to pay "for programs they do not desire."¹⁰

It is true that subscribers who choose to receive only basic and cable programming service tiers after the system upgrade must use the Pioneer 9000 Terminal in order to receive the cable programming tier. However, this represents only a handful of subscribers. When the

⁹Informal Request for Commission Action, at p. 4.

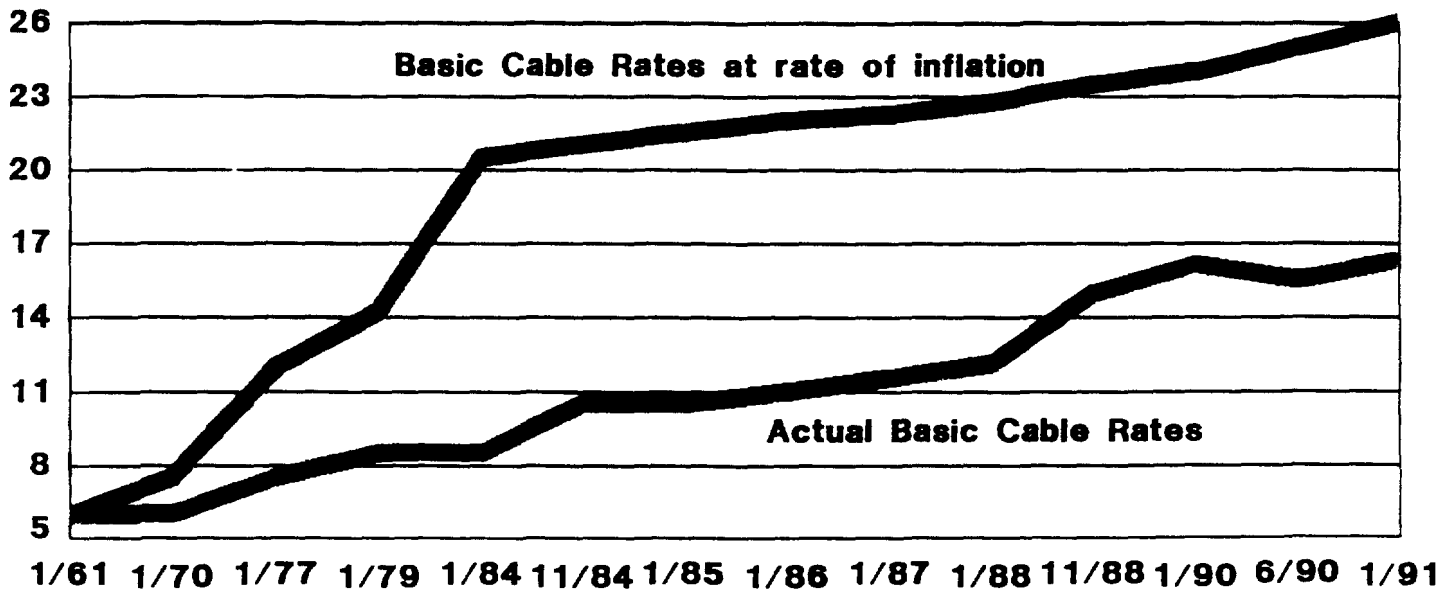
¹⁰S. Rep. No. 92, 102 Cong., 1st Sess. 77 (1991).

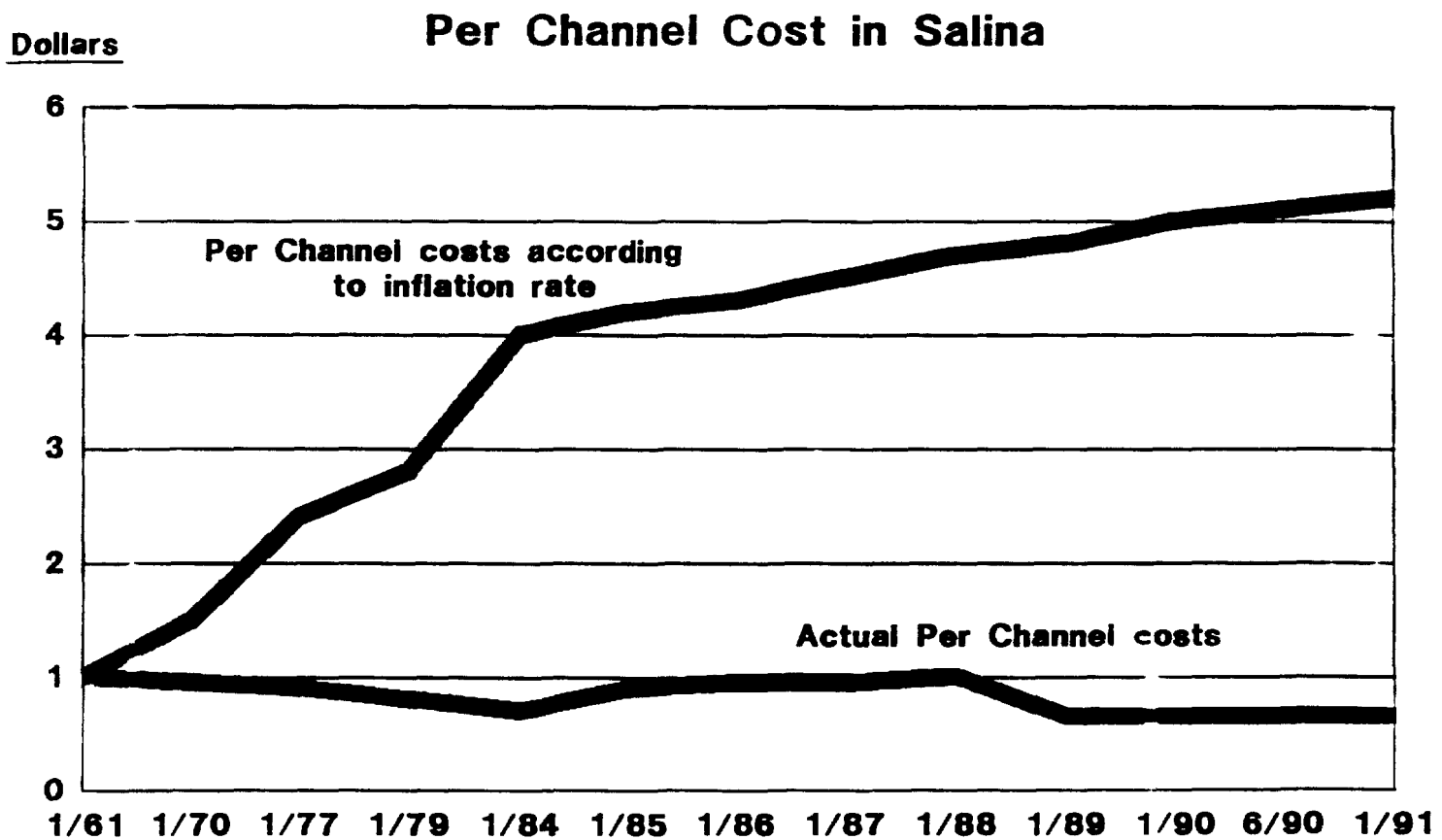
ATTACHMENT 3

History of Salina Cable TV Rate Increases

Compared to Consumer Price Index
(1961-1991)

Dollars





Value of Cable Television

- In 1961, 5 channel basic cost \$ 5.95 (\$ 1.19 per channel)
- Since 1961, inflation has been about 350%.
- In 1991, 23 unduplicated channel basic cost \$ 16.28
- In 1961 dollars, that's \$ 3.64 (16 cents per channel)
- In 1991, per channel, basic cable television costs less than 1/7th of what it did in 1961.
- Compared to 1961, you can watch almost five times as many channels on basic.
- In 1991, on an overall basis, basic cable television costs you 39% less than it did in 1961!

ATTACHMENT 4

DUPLICATE
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MAR - 1 1990

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Competition, Rate Deregulation and the) MM Docket No. 89-600
Commission's Policies Relating to the)
Provision of Cable Television Service)

98f

31
170

COMMENTS OF TELE-COMMUNICATIONS, INC.
IN RESPONSE TO NOTICE OF INQUIRY

John M. Draper
Vice President & General Counsel
Tele-Communications, Inc.
Regency Plaza One, Suite 600
4643 South Ulster Street
Denver, Colorado 80237

Robert L. Hoegle
Mary C. Albert
Olwine, Connelly, Chase,
O'Donnell & Weyher
1701 Pennsylvania Avenue
Suite 1000
Washington, D.C. 20006

March 1, 1990

Attorneys for Tele-Communications, Inc.

of HSDs have appeared in the last decade." Crandall Analysis at 25. Cable operators remain acutely aware of the potential for cancelled subscriptions by unhappy subscribers and the resulting revenue loss and underutilized capital equipment, especially when the alternatives include free viewing. These are clear signs of a competitive environment -- not one dominated by any single participant.

In the Effective Competition Rulemaking, the Commission has identified a number of specific issues to be addressed in considering whether cable operators have excessive local market power. Because TCI expects to participate fully in that proceeding, it has not commented upon the full range of issues here. Nevertheless, readily available reported data do not suggest that cable operators have undue local market power.

A. Cable Service "Prices" And "Output."

Notwithstanding constant rhetoric to the contrary, cable price data do not support claims that cable operators have excessive market power. When cable prices, as measured by the General Accounting Office ("GAO") survey, are adjusted for both inflation and the number of channels offered, the data show that the real price of cable service has remained virtually unchanged since deregulation at about 38¢ per channel. See Crandall Analysis at 22-23. Thus,

after removal of the regulatory constraints on cable prices, the competitive process resulted in no discernible increase in the real cost of cable service to consumers.

Of course, the first GAO survey showed that the average price of basic service, in nominal terms, increased from December 1986 to October 1988. However, this increase must be viewed in the context of prior non-market constraints. Before rate deregulation, cable operators were required to obtain local government approval of proposed increases in the price of basic services. Thus, if a franchising community denied price increases regardless of changing economic conditions, prices were kept artificially low. For example, in one community TCI's prices for basic service were frozen at \$4.50 for 17 years. In another where TCI initiated service with a \$5 price for basic service, it received only two price increases totalling \$1.50 over a 16-year period.

Aggregate cable price data confirm that such arbitrary denials of price increases occurred routinely. Between 1972 and 1986, inflation far outpaced increases in regulated cable prices. While prices for basic service increased by 89 percent from \$5.85 to \$11.09, the consumer price index for all consumer items increased 162 percent from 41.8 to 109.6. NCTA, "A Survey of Cable Service Pricing Changes Since Deregulation," 4-5 (1989). Thus,

municipal regulation of cable prices prevented system operators from recouping large capital expenditures for system construction and limited the funds available for upgrading and expanding existing systems and services.

Viewed in their proper context, the price increases that followed the end of arbitrary municipal regulation were a predictable movement to prices more closely approximating market levels. The GAO's survey of cable television prices and services showed that prices for the most popular basic service increased by 26 percent, from \$11.70 to \$14.77 per month, between December 1986 and October 1988. GAO, National Survey of Cable Television Rates and Services, Report to the Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, United States House of Representatives, 4 (August 1989). At the same time, the average subscriber's overall monthly bill, reflecting charges for basic service, options and premium channels, increased by only 14 percent. Id. at 6-7. Moreover, the increase in the price of basic service was considerably less in 1988, the second year of deregulation, than in 1987. Id. at 24. The average monthly cost for the most popular basic service increased by 15 percent between 1986 and 1987, but only by 9 percent between 1987 and 1988. Id.

The GAO survey results are consistent with industry data reported by Paul Kagan Associates, Inc. According to

Kagan, the average cable subscriber's monthly bill (basic, pay, and auxiliary charges) increased by less than 14% between 1986 and 1988. Kagan Associates, Inc., Marketing New Media, 2 (May 31, 1989). The Kagan data also showed a lower rate of increase during the second year of price deregulation, with the average subscriber's monthly bill increasing by 7.9 percent in 1987 and 5.3 percent in 1988. Kagan Associates, Inc., Marketing New Media, 1 (April 28, 1989). Likewise, the increase in the price of basic service slowed during 1988 to 8.9 percent from 19.7 percent in 1987. Kagan Associates, Inc., The Pay TV Newsletter, 3 (May 26, 1989).

Thus, despite these increases in nominal prices, cable service pricing still lags substantially behind inflation even after deregulation. If basic service prices had simply kept pace with inflation since 1972, the average price would have risen from its 1972 level of \$5.85 to \$16.54 in 1988, nearly 14 percent more than the \$14.77 GAO found that subscribers were actually paying. NCTA, "A Survey of Cable Service Pricing Changes Since Deregulation," 5 (1989). Moreover, after the initial adjustment in pricing, basic price increases are leveling off. According to the Bureau of Labor Statistics, the overall consumer price index increased 3.7 percent in the first nine months of 1989 while the price of cable services rose only 2.3 percent. Oversight of Cable TV: Hearings Before the Sub-

committee on Communications of the Senate Comm. on Commerce, Science and Transportation, 101st Cong., 1st Sess. 64 (1989) (Statement of James P. Mooney) (hereinafter "Cable TV Oversight Hearings").

The price of cable services and these "increases" become meaningful only in light of what they are buying. In contrast to 1984 when the average cable system had 24 or fewer channels, today the majority of cable customers subscribe to systems having at least 30 channels. Television & Cable Factbook, 726 (1984); Television & Cable Factbook, Cable Services Volume at C-375 (1989). Thus, during the course of the GAO survey period, the number of channels available to subscribers increased by 20 to 25 percent and more programming services (i.e., five or six new channels of programming) became available. Consequently, although the average subscriber's monthly cost rose by \$3.07 between 1986 and 1988 according to the GAO survey, the average cost per channel increased by only 2¢. GAO Survey at 4, 26. When adjusted for inflation, the price of cable service remained virtually unchanged. Crandall Analysis at 22-23.

Moreover, additional data indicate that expenditures on basic programming have increased substantially during this period. Crandall Analysis at 23. Indeed, subscribers have acknowledged the increasing quantity and

quality of cable programming services. In a survey conducted by the Roper Organization for the National Association of Broadcasters' Television Information Office in 1989, respondents were asked to compare cable television with broadcast television. Cable scored higher than broadcast in sports, cultural, children's and educational programming and overall quality:

1989 Roper Poll (percentages)

	Regular <u>TV</u>	Cable <u>TV</u>	Both the <u>Same</u>	Do Not <u>Know</u>
Better entertainment programming	26	47	16	11
Better national news coverage	45	33	11	11
Better local news coverage	72	11	7	10
More educational programs	28	47	11	14
More sports programming	17	61	10	13
More cultural programming	22	51	10	16
Better quality programming overall	32	37	16	14
Better programs for children	31	39	11	20
Greater program variety overall	24	52	12	12

National Association of Broadcasters, America's Watching: The TIO/Roper Report at 23 (April 1989).

services declined and TCI eliminated additional television set charges which typically ranged from \$3 to \$6 per month over and above the price of basic service.

Consistent with industry trends, the increases in TCI's nominal price for basic service since deregulation have been accompanied by system expansion and substantial new service offerings. From 1984 to 1989, TCI's capital expenditures totalled approximately \$1.2 billion. The \$390 million expended by TCI in 1989 was primarily for rebuilding and replacing existing cable plant to expand capacity. Cable TV Oversight Hearings at 117 (Statement of John Malone).

In contrast to the lower industry average, as of 1989 the average TCI system had 36 channels. This expansion has contributed to a substantial increase in TCI expenditures for programming. During the period 1985-1989, TCI's expenditures for basic programming increased by over 248 percent with its 1989 programming expenditures increasing by 48 percent over the prior year. Expanded channel capacity and increased programming expenditures have enabled TCI to offer basic subscribers more programming choices.

Thus, if both prices and services are considered, the presently available data show a very competitive market with cable viewers reaping the benefits of competition. In economic terms, real prices have remained constant while